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November 23, 1999

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BY HAND DELIVERY

Magalie Roman Salas, Esquire
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

Re: PR Docket 92-235 and WT Docket 99-87/
Ex Parte Presentation

Dear Ms. Salas:

This is to reflect that yesterday, November 22, 1999, William K. Keane, counsel for MRFAC, Inc. ("MRFAC"), George Petrutsas and Paul J. Feldman, counsel for Forest Industries Telecommunications ("FIT"), and Mark Crosby, President of Industrial Telecommunications Association ("ITA") met with the following members of the Commission's staff to discuss a pending Petition for Reconsideration in PR Docket 92-235, and related matters in WT Docket 99-87:

Mark Schneider, Esq.	Office of Commissioner Ness
Peter Tenhula, Esq.	Office of Commissioner Powell
Adam Krinsky, Esq.	Office of Commissioner Tristani
Ari Fitzgerald, Esq.	Office of Chairman Kennard
Bryan Tramont, Esq.	Office of Commissioner Furchtgott-Roth
Thomas Segrue, Esq.	Chief, Wireless Telecommunications Bureau
Kathleen Ham O'Brien, Esq.	Deputy Chief, Wireless Telecommunications Bureau
Ms. D'Wana Terry	Wireless Telecommunications Bureau
Michael J. Wilhelm	Wireless Telecommunications Bureau
Mark Rubin, Esq.	Wireless Telecommunications Bureau

The matters discussed in those meetings are reflected in the attached documents.

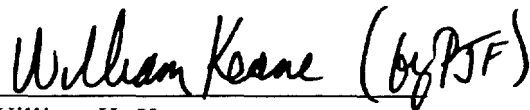
Magalie Roman Salas, Esq.
November 23, 1999
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An original and two copies of this letter are supplied for inclusion in the above two dockets.

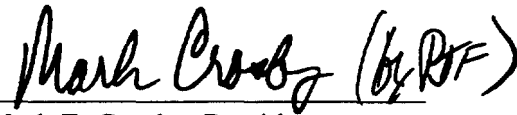
Sincerely,



George Petrutsas
Paul J. Feldman
Counsel for Forest Industries Telecommunications



William K. Keane
Counsel for MRFAC, Inc.



Mark E. Crosby, President
Industrial Telecommunications Association

PJF:mah
Enclosures

cc: (all w/encl): Mark Schneider, Esq.; Peter Tenhula, Esq.; Adam Krinsky, Esq.; Ari Fitzgerald, Esq.; Bryan Tramont, Esq.; Kathleen M. O'Brien, Esq.; Tom Segrue, Esq.; Ms. D'Wana Terry; Michael J. Wilhelm, Esq.; Mark Rubin, Esq.

**MRFAC and FIT Presentation in PR Docket 92-235 and WT Docket 99-87
Coordination of Shared Frequencies, and Separate Pools**

- In the Second Memorandum Opinion and Order in PR Docket No. 92-235 (the "refarming" proceeding), released April 13, 1999, the Commission amended Section 90.35(b) of the Rules to designate the Petroleum and Power frequency coordinators (API and UTC) as the mandatory coordinator(s) for the frequencies in the 150-173 and 450-470 MHz band which were shared by the former Power, Petroleum, and the Forest Products Radio Services prior to the consolidation of the private land mobile radio services. In effect, the Commission revoked the authority of the coordinators for the industries represented here (the manufacturing, telephone, and forest products) and others, to coordinate the frequencies which those industries had successfully shared with the petroleum industry and the utilities for over 40 years, and which they had coordinated successfully also for over 40 years.

- MRFAC and FIT have petitioned for reconsideration of that aspect of the Second MO&O. In addition, recognizing the procedural and substantive problems in the revision to Section 90.35(b), the Commission has stayed the effectiveness of the revision to that rule. The Commission should now grant the MRFAC and FIT petitions for reconsideration, for the following reasons:

- The decision is unreasonable in that the rule as it now stands is not necessary to protect utilities and petroleum mobile communications frequencies from interference. API had proposed, and FIT and MRFAC support, a system which would require only concurrence on applications for systems that would place an interfering signal within the service area contour of an incumbent system (as a coordination trigger). The Commission rejected API's proposal because "...the issue of whether to provide protected contours (*i.e.* exclusivity) to Part 90 licensees generally is the subject of another aspect of the proceeding..." However, API did not propose protected service contours for the purposes of exclusivity. It merely proposed the use of service and interfering contours for the purpose of determining whether the concurrence of the petroleum coordinator should be required. Thus, the Commission misapprehended the nature of the request.

- The decision is inconsistent with the Commission's announced goal in this Docket of providing competition in the coordination of shared frequencies. The rule channels coordination business to certain coordinators and away from others, and in doing so it restricts consumer choice.

- There is no rational basis for concern about endangering petroleum and utility operations from manufacturing, telephone, and forest products industries operations. These industries have

shared the frequencies in question with the utilities and the petroleum industries for over 40 years without operational or coordination problems.

- Reliable land mobile communication systems are as essential to safety and productivity in the manufacturing, telephone and the forest products industries as they are in the utilities and in the petroleum industries. Yet, the rule as it stands would impede access to these important frequencies by entities which historically shared them on a co-equal basis. It is flatly inequitable to place manufacturers, the forest products and telephone industries in this position, and flawed spectrum management policy as well. Furthermore, the rule would make API and UTC unnecessary gatekeepers, with incentive and the power to block or delay legitimate and safe operations of the frequencies by users in other industries. After all, UTC has said not only that it wants a separate pool, but that it wants one in order to reserve spectrum for the future needs of its members. By elevating UTC to gatekeeper status, the coordination rule allows UTC to create *de facto* the same separate pool it seeks elsewhere. With a reciprocal, co-equal access rule, coordinators for other industries can keep a check on such behavior.

- There are effective alternatives: MRFAC and FIT suggest an approach similar to that in the API petition for reconsideration: if the predicted interference contour in an application for a shared frequency would overlap the service contour of an incumbent facility, the applicant would be required to seek the concurrence of the incumbent's industry coordinator. Such a rule is simple and straightforward. It can be administered easily by the existing coordinators and could serve the stated interests of the petroleum and the utilities industries as well as the interests of the manufacturers, forest products and telephone industries, in reliable communications. This is the very same approach adopted in the Third MO&Q for trunked system coordination. A proposed revision to Section 90.35 is attached.

- A separate pool for Utility and Petroleum frequencies is not necessary and would be contrary to the public interest. Since the concurrence alternative proposed by API and supported by the MRFAC and FIT would achieve the objective of protecting petroleum and utilities mobile communications facilities, there is no justification for the separate pool sought by UTC and API. Such a pool would deprive the manufacturers, forest products and telephone industries, 60 percent of the UHF frequencies, and deprive the manufacturers and forest products industries over 50 percent of the VHF frequencies that all of these parties have shared for over 40 years. In contrast, the protected contour concurrence approach would ensure that spectrum vital for the growth, safety and productivity of all affected industries is not "walled off". This approach is thus a "win-win" for everyone.

Substitute in Section 90.35 a new limitation "XX" for the "IP/IW" references associated with the frequencies shared prior to consolidation with the manufacturing, forest products, and telephone industries, such limitation to read as follows:

"XX/ Applications for new and/or modified systems on this frequency may be coordinated by any coordinator certified in the Industrial/Business Pool; provided, however, that in the event the interference contour (22 dBu for VHF stations, 19 dBu for UHF stations) of the proposed station would overlap the service contour (39 dBu for VHF stations, 37 dBu for UHF stations) of a station authorized as of the effective date of the Radio Service consolidation (October 17, 1997), the concurrence of the coordinator for the industry in which the license was issued, or of the licensee itself, shall be obtained."

SHARED 450-470 MHz FREQUENCIES¹

FREQUENCIES (MHz)	IX	IF	IS	LX	IB	IP	IW	IT
451.175 - 451.675	10	10				10	10	10
451.700 - 451.750		2				2		
452.200 - 452.275		5		5				
452.350 - 452.450		3		3				
456.175 - 456.675 ²	10	10				10	10	10
456.700 - 456.750 ³		2				2		
462.475 - 462.525	2	2				2	2	2
467.475 - 467.525 ⁴	2	2				2	2	2

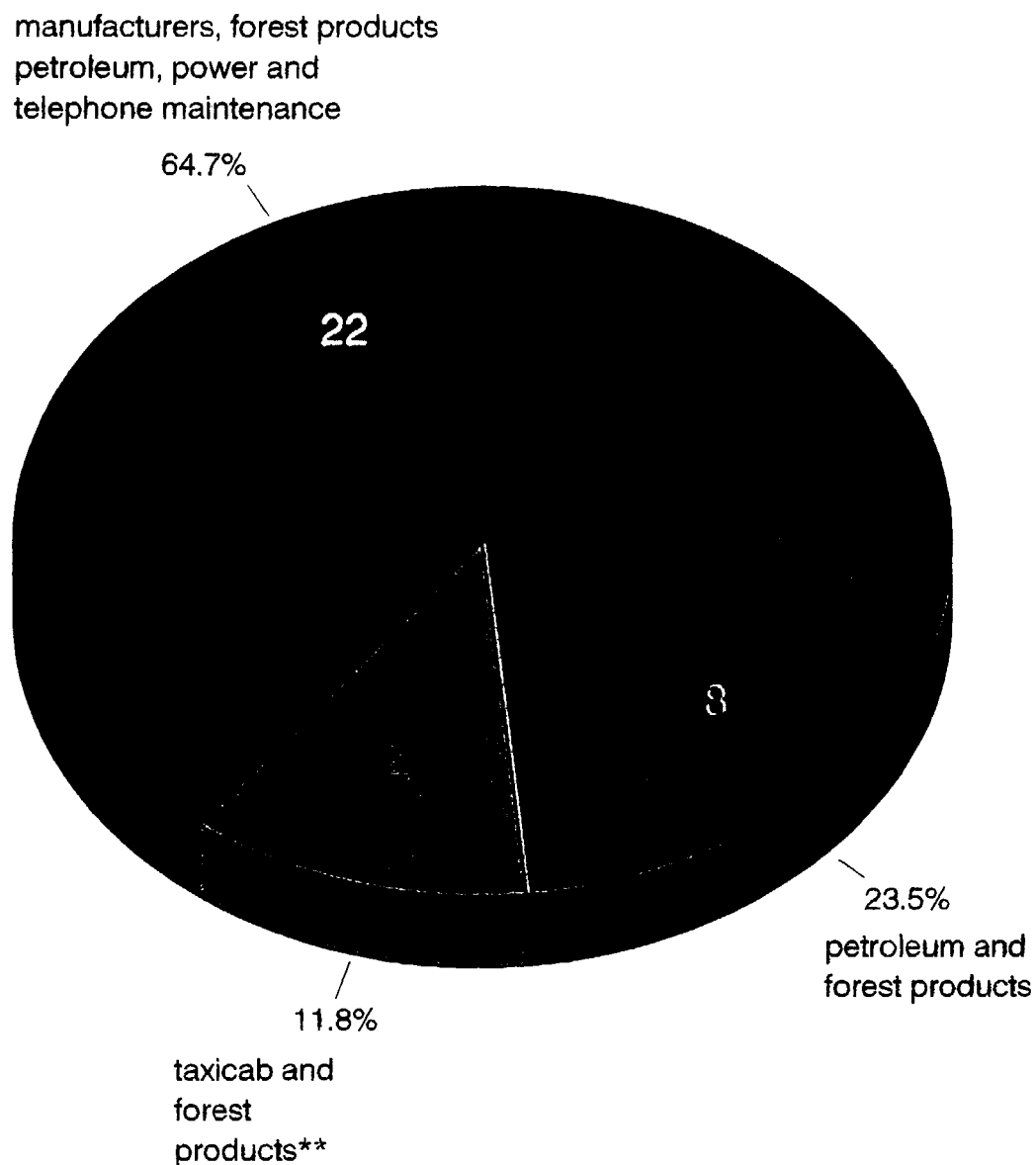
¹ Does not include paging or splinter frequencies

² Paired with 451.175 - 451.675

³ Paired with 451.700 - 451.750

⁴ Paired with 462.475 - 462.525

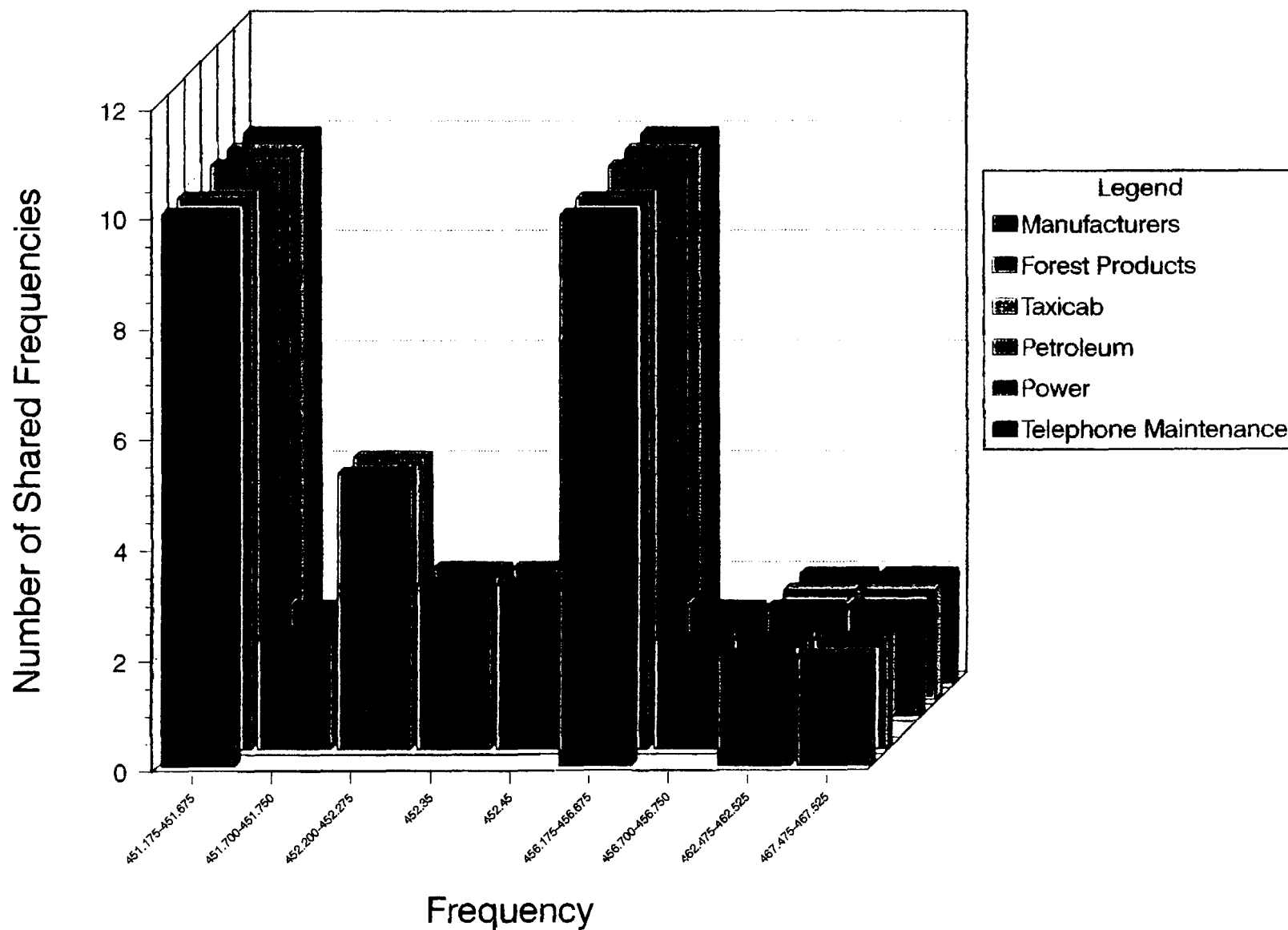
Number of Channels Shared by Specified Services, 450-470 MHz*



*Graph does not include paging or splinter channels

**Channels at 452.100-452.450 and 457.100-457.450 are available for forest products in ID, MT, OR, and WA

Shared 450-470 MHz Radio Frequencies

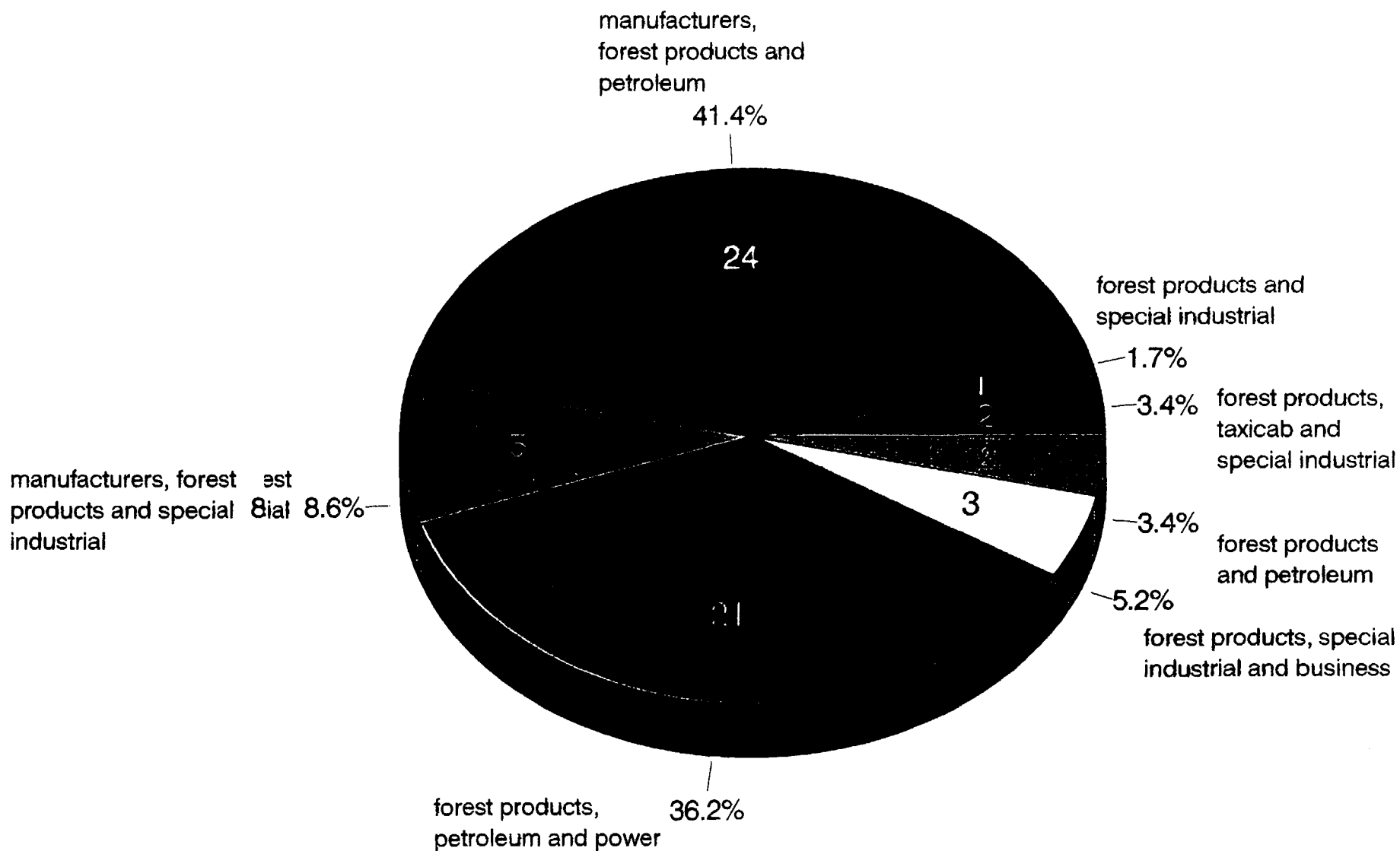


SHARED 150 MHz FREQUENCIES⁵

FREQUENCY (MHz)	IX	IF	IS	LX	IB	IP	IW
152.465		1	1	1			
152.480		1	1		1		
153.050 - 153.320	19	19				19	
153.335 - 153.395	5	5	5			5	
153.425 - 153.680		14				14	14
154.45625 - 154.47875		4					
154.625		1	1		1		
157.725		1	1	1			
157.740		1	1		1		
158.145 - 158.265		7				7	7
158.280 - 158.430	6	6				6	
158.355 - 158.370		2				2	
158.460		1	1		1		

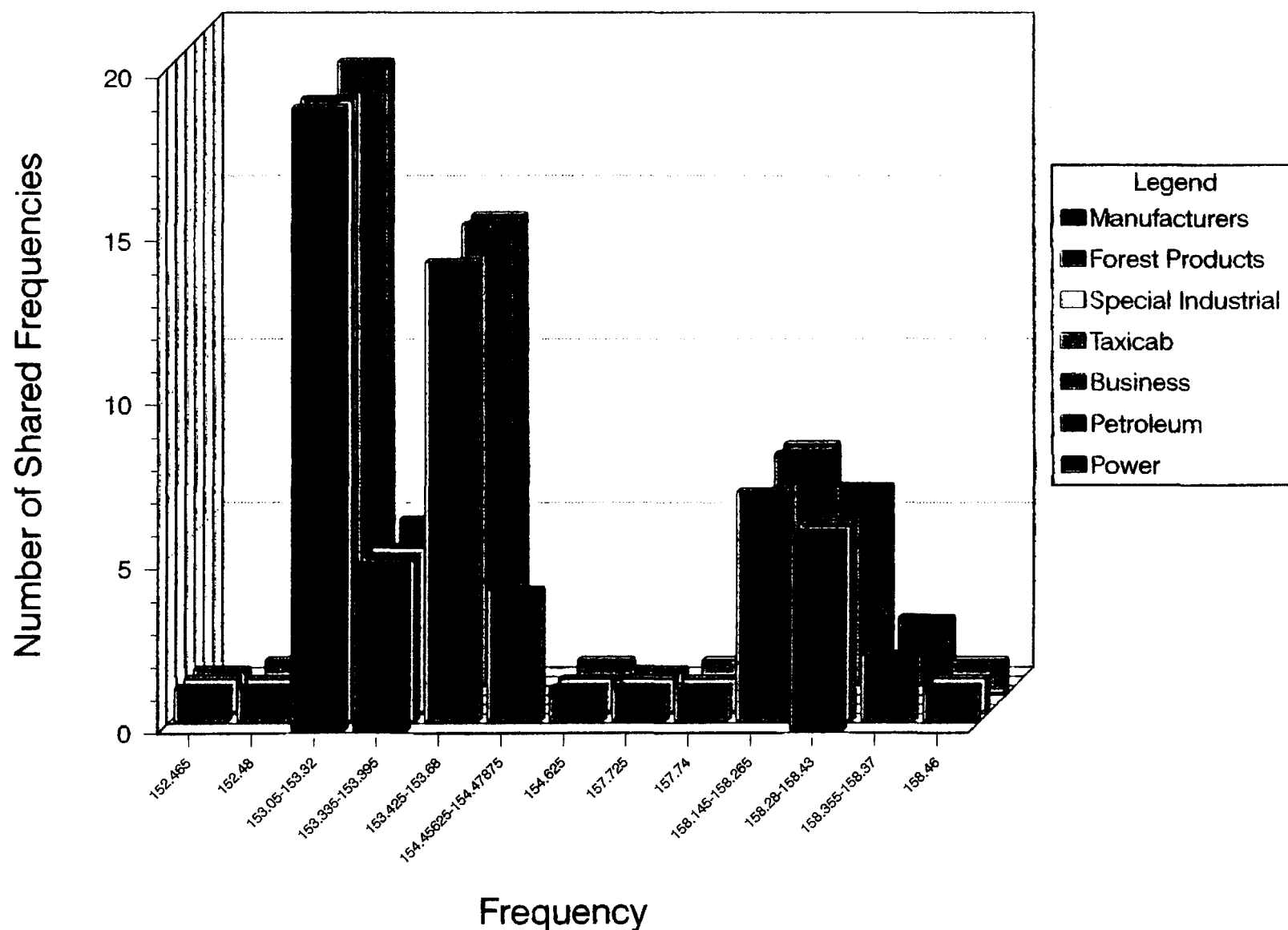
⁵ Does not include paging or splinter frequencies.

Number of Channels Shared by Specified Services, 150 MHz*



*Graph does not include paging or splinter channels

Shared 150 MHz Radio Frequencies*



*Graph does not include paging or splinter frequencies